IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1447 OF 2005

IN
SECOND APPEAL NO.903 OF 2005

Shri Mahadeo jaydeo Tandel (since deceased)through heirs Smt. Mangalabai Mahade Tandel& others ..Appellants

Versus

Smt. Taramati Namdeo Morje & others ..Respondents

Mr. Brijesh i/b khandeparkar & Associates for the Appellants

Mr. V.S. Gokhale for Respondent Nos. 1 to 5

CORAM : ANOOP V. MOHTA,J.

DATED : 13th July, 2007

P.C.

Even though both the Courts are against the appellant, yet in view of the fact that Respondent no. 1 being the sister of the appellant and further as declared by giving reason by the Appellate Court in order dated 27-10-2004 that the appellant is not entitled for possession of the land in its house no. 1805 during the lifetime of defendant no. 1, this also means the appellant after the death of defendant no. 1 is entitled for the possession of the land in

its house no. 1805.

2. In view of this background and for the fact that admittedly there is no challenge raised or made by respondent no. 1 to the issue no. 4 answered by Appellate Court, I am of the view that the respondent no. 1 who is in possession of the suit house shall not create any third party interest during her lifetime in the suit property.

3. In view of this, the Civil application is disposed of accordingly.

(ANOOP V. MOHTA,J)